

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

THOMAS J. PETERSEN,

Petitioner,

vs.

LEROY KIRKEGARD; ATTORNEY  
GENERAL OF THE STATE OF  
MONTANA,

Respondents.

CV 14-9-H-DLC

ORDER

**FILED**

MAR 17 2014

Clerk, U.S. District Court  
District Of Montana  
Missoula

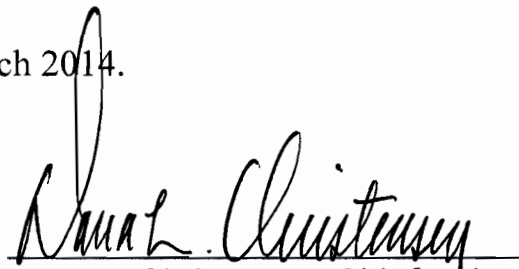
United States Magistrate Judge R. Keith Strong entered Findings and Recommendations on February 27, 2014, recommending that the petition be dismissed without prejudice for failure to exhaust state judicial remedies. Petersen failed to timely object to the Findings and Recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court adopts Judge Strong's findings and recommendation in full.

Petersen filed this habeas petition prior to filing his petition for postconviction relief. Petersen must exhaust his state judicial remedies before he

brings his habeas action in federal court. *Rose v. Lundy*, 455 U.S. 509, 520 (1981); *Slack v. McDaniel*, 529 U.S. 473 (2000). A certificate of appealability is not appropriate in this case. *Gonzalez v. Thaler*, 132 S.Ct. 641, 648 (2012).

IT IS ORDERED that Judge Strong's Findings and Recommendation (Doc. 4) are ADOPTED IN FULL. Petersen's petition is DISMISSED WITHOUT PREJUDICE. A certificate of appealability is DENIED.

DATED this 17<sup>th</sup> day of March 2014.

  
\_\_\_\_\_  
Dana L. Christensen, Chief Judge  
United States District Court